

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

rf5531
Hearing: 11/30/06

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In re:

DIEGO CUERVO

CHAPTER 13

Case No.: 806-72343

OBJECTION TO CONFIRMATION

Debtor(s)

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TO: THE HONORABLE MELANIE L. CYGANOWSKI/STAN BERNSTEIN, UNITED STATES
BANKRUPTCY JUDGES:

The objection of the Columbia Capital Co. (hereinafter "Columbia"),
by its bankruptcy counsel, Richard S. Feinsilver, Esq., respectfully
sets forth and represents that:

1. Columbia is the holder of a secured claim against the debtor by
virtue of a mortgage held by Columbia against certain real property
located at 1224 Suffolk Avenue, Brentwood, New York.

2. On September 25, 2006, the debtor filed a voluntary petition for
relief under Chapter 13 of the Bankruptcy Code under case # 06-72343
thereby staying a foreclosure proceeding commenced by Columbia. Michael
J. Macco, Esq. is the Standing Chapter 13 Trustee assigned to this case.

3. Columbia has filed a proof of claim dated November 8, 2005, in
the amount of \$250,426.08, including \$77,576.61 in arrears. (Exhibit A)

4. The debtor's post petition mortgage payments are \$2904.03 per
month. As of this date, the debtor has not remitted post petition
mortgage payments for the months of October, 2006 and November, 2006.

As of November 10, 2006, the debtor shall be \$6,098.46 in post petition mortgage arrears. Based upon the foregoing, the debtor has not provided adequate protection to Columbia.

5. In addition to the foregoing, the debtor has proposed a plan, which, upon information and belief, is based upon the sale of an adjacent parcel and building. At the debtor's Section 341 examination, debtor's counsel presented a proposed contract for the sale of this parcel, but has made no showing that the net proceeds from this transaction shall be sufficient to pay the mortgage arrears on the debtor's obligation with Columbia.

6. Last, upon information and belief, in furtherance of the requirements of 11 U.S.C. Section 521, the debtor has not provided the Court with evidence that he has filed tax returns for the tax years 2002, 2003, 2004 and 2005. Absent the production of this evidence, the debtor's plan cannot be confirmed.

7. Based upon the foregoing, Columbia objects to the confirmation of the debtor's last filed Chapter 13 plan on the basis that the proposed plan is clearly insufficient to pay the claim filed by Columbia in this case.

WHEREFORE, creditor Columbia Capital Co. objects to the confirmation of the debtor's last filed Chapter 13 plan in this case and respectfully requests that the debtor's Chapter 13 petition be dismissed and that this Court grant such other relief as this Court deems just and proper.

Dated: November 8, 2006
Carle Place, New York

s/Richard S. Feinsilver

Richard S. Feinsilver (rf5531)
Bankruptcy Counsel to
Columbia Capital Co.

To: U.S. Bankruptcy Court
U.S. Trustee
Debtor
Michael Macco, Esq.
Ronald Weiss, Esq.

EXHIBITS

A true copy of all exhibits have been served upon the affected parties with this application.

A copy of the Exhibits to this application can be obtained from debtor's attorney at the following address:

Richard S. Feinsilver, Esq.
One Old Country Road, Suite 125
Carle Place, New York 11514
516-873-6330

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

-----X

In re

DIEGO CUERVO

Chapter 13
Case No.: 806-72343

AFFIRMATION OF
SERVICE

DEBTOR

-----X

The undersigned attorney, duly admitted to practice before this Court, affirms the following to be true under the penalties of perjury:

1. That he is the attorney for the Debtor in the instant action.
2. That on the 8th day of November 2006, your affiant served the within Objection to Confirmation and Exhibits upon:

- (a) US Trustee, 560 Federal Plaza, Central Islip NY 11722
- (b) Michael Macco, 135 Pinelawn Road, Suite 120S. Melville NY 11747
- (c) Diego Cuervo, 470 Moffitt Blvd, Islip NY 11751
- (d) Ronald Weiss, 734 Walt Whitman Road, Suite 203, Melville NY 11747

the address(es) designated by said attorney and party for that purpose by depositing a true copy of same to each attorney and party, enclosed in a post paid properly addressed wrapper, in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York.

Dated: November 8, 2006
Carle Place, New York

s/Richard S. Feinsilver

RICHARD S. FEINSILVER (RSF5531)